



MIKE PENCE, *Governor*  
JAMAL L. SMITH, *Executive Director*

ICRC No.: EMra12071371

[REDACTED],  
Complainant,

v.

ASSISTED LIVING CONCEPTS, INC.,  
Respondent.

### NOTICE OF FINDING

The Deputy Director of the Indiana Civil Rights Commission ("Commission"), pursuant to statutory authority and procedural regulations, hereby issues the following findings with respect to the above-referenced case. Probable cause exists to believe that an unlawful discriminatory practice has occurred in this instance. 910 IAC 1-3-2(b).

On July 24, 2012, [REDACTED] ("Complainant") filed a Complaint with the Commission against Assisted Living Concepts, Inc. ("Respondent") alleging race discrimination in violation of [REDACTED] the Indiana Civil Rights Law (Ind. Code § 22-9, *et. seq.*) Accordingly, the Commission has jurisdiction over the parties and the subject matter.

An investigation has been completed. Both parties have been given the opportunity to submit evidence. Based upon a full review of the relevant files and records and the final investigative report, the Deputy Director now finds the following:

The issue presented to the Commission is whether Complainant was terminated because of her race. In order to prevail, Complainant must show that: (1) she is a member of a protected class; (2) she suffered an adverse employment action; (3) she was meeting Respondent's legitimate business expectations; and (4) similarly-situated employees of a different race were treated more favorably.

It is evident that Complainant falls within a protected class by virtue of her race, African-American, and it is undisputed that she suffered an adverse employment action when Respondent terminated her employment on July 3, 2012. Moreover, while Respondent asserts it terminated Complainant for violating its dress code and appearance policy, there is no evidence supporting these assertions. Rather, the record and witness testimony corroborates that Complainant was never disciplined for violating company policy and there is no evidentiary



documentation to show that Complainant was otherwise failing to meet Respondent's legitimate performance expectations. Further, Complainant alleged and witness testimony shows that she and another employee, the only other African-American, were asked to document their desire to exclusively work together on the same shift despite Complainant's assertions that she did not have such a preference and that they were the only individuals requested to make such a request. Therefore, based upon the aforementioned, there is reason to believe that Respondent's rationale for terminating Complainant may be pretext for unlawful discrimination and that has treated similarly-situated Caucasian employees more favorably than African-American employees. Thus, probable cause exists to believe that an unlawful discriminatory practice occurred in this instance.

A public hearing is necessary to determine whether a violation of the Indiana Civil Rights Law occurred as alleged herein. Ind. Code § 22-9-1-18, 910 IAC 1-3-5. The parties may agree to have these claims heard in the circuit or superior court in the county in which the alleged discriminatory act occurred. However, both parties must agree to such an election and notify the Commission, or the Commission's Administrative Law Judge will hear this matter. Ind. Code § 22-9-1-16, 910 IAC 1-3-6.

September 18, 2013

Date

Akia Haynes

Akia A. Haynes, Esq.,

Deputy Director

Indiana Civil Rights Commission